

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
LIGHTBOX VENTURES, LLC, :
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:
Plaintiff, :
:
-against- :
:
3RD HOME LIMITED and WADE SHEALY, :
:
Defendants. :
:
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16-cv-02379 (DLC)

**AFFIDAVIT OF ANDREW
ELLNER IN SUPPORT
OF APPLICATION FOR
ATTORNEYS' FEES AND
COSTS**

3RD HOME LIMITED and WADE SHEALY, :
:
Counterclaim Plaintiffs and :
Third-Party Plaintiffs, :
:
-against- :
:
ANDREW ELLNER, :
:
Third-Party Defendant. :
:
----- X

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Andrew Ellner, being duly sworn, deposes and says:

1. I am the managing member and chief executive officer of Lightbox Ventures, LLC (“Lightbox”), Plaintiff in this action. I make this affidavit in support of the Plaintiff’s Application for Attorneys’ Fees and Costs pursuant to the Court’s Orders of 11/16/16

(ECF Doc. # 76) and 11/15/2017 (ECF Doc # 152). I make this application based on my personal knowledge.

2. Legal fees and costs accrued related to discovery in this matter are accurate as stated and shown by Brem Moldovsky, Esq., in his Declaration in Support of this Fee Application. (See Moldovsky Decl. ¶ 26, Exhibit “D”).

3. The forensic expert hired by Plaintiff pursuant to the Court’s November 16, 2016, Forensic Discovery Order (ECF Doc. # 76) is named Discovia. To date, I have paid \$17,934.14 to Discovia for forensic data recovery and analysis, and to make this data available to Plaintiff through Discovia’s data hosting services. (See Discovia Agreement and Invoices attached hereto as Exhibit “A”).

4. I have also paid \$953.87 to a third-party vendor named VDiscovery for costs associated with copying, filing and submission of Plaintiff’s letter motion (ECF Doc. # 142) to shift discovery fees, and submission of Defendants’ opposition and Plaintiff’s reply. (See VDiscovery Invoices, attached hereto as Exhibit “B”).

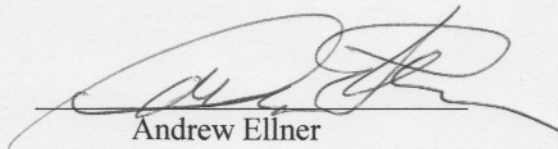
5. Additionally, I have personally spent in excess of 50 hours reviewing the documents retrieved by Discovia; in excess of 20 hours reviewing the documents provided by the Defendants to determine whether those documents overlap the documents uncovered by Discovia; and in excess of 6 hours reviewing, preparing, consulting with counsel and analyzing the discovery issues brought up by the Forensic Discovery Order. This time was spent on tasks that would have been done by an attorney or paralegal had I not completed them.

6. To elaborate on paragraph 5, included in my time spent reviewing documents retrieved by Discovia is time spent reviewing 3,196 e-mails Discovia provided to the Defendants of potential privileged emails that were released to me on a CD for analysis by the

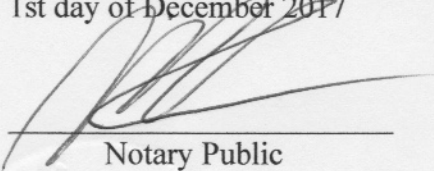
Defendants. Those emails were on a CD and therefore I had to read each one as I could not use the Discovia system to parse them. These are the same emails that Defendants' Counsel stated he spent a full weekend reviewing.

7. Based on a reasonable hourly rate equal or greater than the paralegal hourly rate of \$150, I politely request that my own time be reimbursed at a reasonable rate.

Dated: New York, New York
December 1, 2017


Andrew Ellner

Sworn to before me this
1st day of December 2017


Notary Public


MILUSKA RIOS
Notary Public - State of New York
No. 01RI6301528
Qualified in Bronx County
My Commission Expires April 14, 2018